



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270
January 20, 2023

January 24, 2023

GENERAL NOTICE LETTER
URGENT LEGAL MATTER, PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED #

Mr. Lance Fritz
Chairman, President, and Chief Executive Officer
Union Pacific Railroad Company
1400 Douglas Street
Omaha, Nebraska 68179

Re: General Notice Letter for Union Pacific Railroad Company Houston
Wood Preserving Works Superfund Site in Harris County, Texas.

Dear Mr. Fritz:

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the EPA is responsible for responding to the release or threat of release of hazardous substances, pollutants, or contaminants into the environment - that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. The EPA has documented that such a release has occurred at the Union Pacific Railroad Company Houston Wood Preserving Works Superfund Site. The EPA has spent, or is considering spending, public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Based on information presently available to the EPA, the EPA has determined that the Union Pacific Railroad Company (UPRR) may be responsible under CERCLA for cleanup of the Site or costs the EPA has incurred in cleaning up the Site.

Site Background

The Site includes an inactive wood-treating facility that was formally owned and operated by Southern Pacific Transportation Company since 1957. The Union Pacific Railroad Company acquired Southern Pacific Transportation Company in 1997. The Union Pacific Railroad Company Houston Wood Preserving Works facility is located at 4910 Liberty Road and includes approximately 33-acres located in a primarily industrial and residential area in Houston, Harris County, Texas, near the intersections of Liberty Road with Lockwood Drive, and Liberty Road and Altoona Street. During the active operation of the facility, the Site consisted of a series of wood-sizing buildings, a water treatment area, a series of aboveground waste and product storage tanks, an inactive surface impoundment, one wood-tie building, miscellaneous sheds, an office building and what was once the wood processing area.

The UPRR wood preserving facility is industrial land and was first established for creosoting operations in 1911. Creosoting operations continued until 1984 when operations ceased. The UPRR Houston Wood Preserving Works facility was established and operated by the Southern Pacific Railroad Company. Through a series of mergers, UPRR acquired Southern Pacific Transportation Company in 1997. Through that merger, UPRR is the current owner and operator of the facility and is the successor to the Southern Pacific Railroad Transportation Company.

Historical operations at the UPRR wood preserving facility included the treatment of railroad ties with creosote and pentachlorophenol to prevent rotting; and creosote processing and waste disposal. The facility utilized creosote extenders composed of industrial chemical wastes, including chlorinated materials. Other hazardous chemicals used at the facility for wood treatment included naphtha, heavy fuel oils, styrene tar, and diesel fuel. Treatment processes generated a waste stream consisting of liquid creosote wastes and potentially other solid and hazardous wastes. This waste stream was initially managed in two solid waste management units until the mid-1970s, when Southern Pacific began to manage the stream first in a wood-lined drainage ditch and then in a surface impoundment.

The September 21, 2022, soil sampling report showed that the distribution of elevated dioxins/furans concentrations in soil samples were often greater nearer the UPRR wood preserving facility and decreased at locations further away. Elevated dioxins/furans concentrations were identified in soil samples across the study area and indicated that the UPRR wood preserving facility may be a potential source of dioxins/furans found in neighborhood soils surrounding the facility. The 2022 soil sample results also verified that the City of Houston right-of-way property near the UPRR wood preserving facility had elevated PCB concentrations.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by the EPA in cleaning up the Site, unless the PRP can demonstrate divisibility or assert one of the statutory defenses. PRPs include current and former owners and operators of a Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the Site, and persons who accepted hazardous substances for transport and selected the Site to which the hazardous substances were delivered.

Based on the information collected, the EPA believes that the Union Pacific Railroad Company may be liable under Section 107(a) of CERCLA with respect to the UPRR Superfund Site, as a current or former owner and/or operator of facilities located at or near the Site. Specifically, the EPA has reason to believe that you owned or operated the Site as identified in Enclosure 1. As provided below, the EPA encourages the UPRR Company to participate in negotiations offered under this CERCLA notice letter. If this action does not result in a resolution, the EPA may perform the removal work described in Enclosure 2 under CERCLA Section 104 and seek cost recovery under CERCLA Section 107. The EPA may also exercise other available enforcement authorities under CERCLA Section 106.

Your Response to the EPA

Please give these matters your immediate attention and consult with your attorney. The EPA invites you to participate in negotiations for the performance of removal work described in the draft Administrative Settlement Agreement and Order on Consent (ASAOC). See Enclosure 2.

Please call/contact Ms. Angie Cuff, Enforcement Officer, at 214.665.8134 within three (3) calendar days of the date of this letter regarding: (1) your willingness to enter into negotiations for the performance of a Site Removal Evaluation; (2) your willingness to provide redline/strikeout comments to the enclosed draft ASAOC attached to this letter within seven (7) calendar days of this letter; and (3) your willingness to reach an agreement-in-principle concerning the proposed ASAOC within twenty-one (21) calendar days of this letter.

Please contact Mr. George Malone, Attorney, at malone.george@epa.gov or 214.665.8030, concerning questions or concerns regarding the draft ASAOC, comments to the draft ASAOC, and scheduling potential negotiations. Thank you for your prompt attention to this matter.

Sincerely,

**SUSAN
WEBSTER**

Susan D. Webster, Manager
Assessment & Enforcement Branch
Superfund and Emergency Management Division

Digitally signed by SUSAN WEBSTER
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ou=Environmental Protection
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Enclosures (2)

1. Evidence of Liability
2. Settlement Agreement and Administrative Order on Consent (AOC)

ENCLOSURE 1

**SOUTHERN PACIFIC TRANSPORTATION COMPANY/UPRR
HOUSTON, HARRIS COUNTY, TEXAS**

EVIDENCE OF POTENTIAL LIABILITY

1. Texas Commission on Environmental Quality Permit for Industrial Solid Waste Management Site
 - a. 4910 Liberty Road, Houston, Texas: Legal Description: Union Pacific Railroad Co.



**Texas Commission on
Environmental Quality
Austin, Texas**

Hazardous Waste Permit No. 50343
EPA ID. No. TXD000820266
ISWR No. 31547

Permit for Industrial Solid Waste
Management Site issued under
provisions of Texas Health and Safety
Code ANN. Chapter 361 and Chapter 26
of the Texas Water Code

Name of Permittee:	Union Pacific Railroad Company Houston Wood Preserving Works 4910 Liberty Road Houston, Texas 77026
Site Owner:	Union Pacific Railroad Company 350 N Saint Paul Street Dallas, Texas 75201-4201
Registered Agent for Service:	CT Corporation System 1999 Bryan Street, Suite 900 Dallas, Texas 75201-3136
Classification of Site:	Hazardous Industrial Solid Waste, Post-Closure Care, Corrective Action, Noncommercial Facility.

The permittee is authorized to conduct post-closure care in accordance with the limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules of the Commission and other Orders of the Commission, and laws of the State of Texas. This permit does not exempt the permittee from compliance with the Texas Clean Air Act. This permit will be valid until canceled, amended, modified or revoked by the Commission, except that the authorization to manage wastes shall expire midnight, ten (10) years after the date of this renewal permit approval. This permit was originally issued on June 6, 1994 and subsequently renewed on June 10, 2005.

All provisions in this permit stem from State and/or Federal authority. Those provisions marked with an asterisk (*) stem from Federal authority and will implement the applicable requirements of Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the Texas Commission on Environmental Quality has not been authorized.

Issued Date:

For the Commission

ENCLOSURE 2

**SOUTHERN PACIFIC TRANSPORTATION
COMPANY/UPRR HOUSTON, HARRIS COUNTY, TEXAS**

ADMINISTRATIVE ORDER ON CONSENT (AOC)

Ex. 5 Deliberative Process (DP) / Ex. 7(A)

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